



To: Robert Layton, City Manager, City of Wichita
From: Keven Ward, Public Sector Consultant, Keven.Ward@trane.com (913) 633-8925
Date: April 21, 2010
Re: Overview of Kansas Fiscal Tool K.S.A. 75-37,125 and potential benefits for the City of Wichita

Kansas' Statutory Fiscal Tool K.S.A. 75-37,125 is authorized by statute and advocated by the legislature, Governor, KSDE, KASB, KCC, the Kansas State Historical Society, KAC, U.S. Department of Energy, EPA, et al. The Federal Government and 45 other States have similar legislation.

It is common knowledge that many cities in Kansas are facing unprecedented budget challenges preventing them from adequately funding required capital outlay improvements while also contending with operational budget shortfalls. A project utilizing K.S.A. 75-37,125 and the process it enables can provide timely solutions.

Introduction to Kansas Fiscal Tool K.S.A. 75-37,125

The Concept

Kansas' fiscal tool K.S.A. 75-37,125 enables a method for funding needed improvements from immediate and future savings that are generated from the improvements. This funding method has been prevalent for over 20 years. Kansas passed legislation (K.S.A. 75-37,125) in 2000, which modified procurement law to enable the Performance Management Method in Kansas.

A Performance Management Contract allows the City of Wichita to partner with Trane, a Kansas Master Contract pre-qualified Energy Services Company (ESCO) to perform financial, design, build and support services and implement capital improvements that result in reduced utility, operational and maintenance costs. The ESCO shall assist with funding the program over an optimal financing term and in compliance with the statutory payback formula of 30 years with payments being made annually with the savings that are achieved. The ESCO guarantees enough savings to cover the principal and interest payments by paying any saving shortfalls. **Any savings beyond the guaranteed amount is kept by the City of Wichita.**

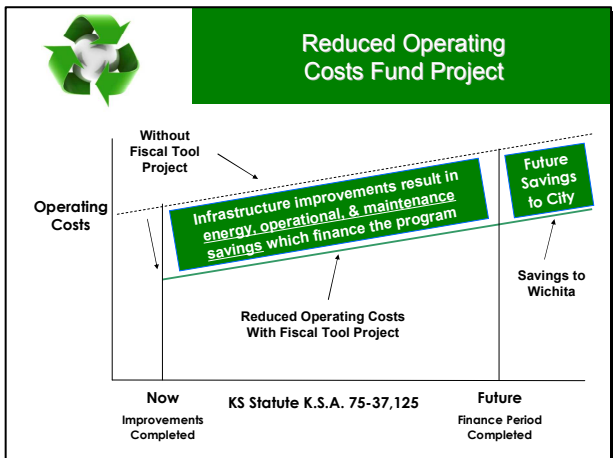


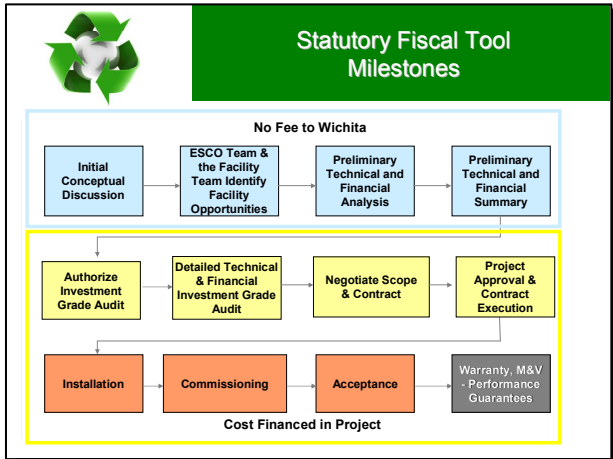
Benefits of "Green" High Performance Cities

- Reduced Energy & Operating Costs
- Alleviate Capital Expenditures
- Infrastructure Upgrades / Modernization
- Optimize Technology to Improve Productivity
- Local Job Creation
- Positive Public Relations

The Implementation Approach

The ESCO is the single source of responsibility for the program. As the milestone graphic below indicates, the ESCO first conducts a preliminary technical and financial analysis at no cost to the City to verify compliance with K.S.A. 75-37,125. If aligned with City's goals and only with the City's authorization, the ESCO then conducts an Investment Grade Audit or comprehensive study of selected City facilities, street, parking lot, and garage lights, water meters, airfield signs and lighting, fleet maintenance, et al to determine the potential for reducing energy and operational costs through operational expenditure savings, labor efficiencies, high-efficiency equipment replacement / upgrades and other compliant savings. Based on the results, the ESCO makes recommendations that when implemented will generate enough savings to pay for the project within the 30 year payback period dictated by K.S.A. 75-37,125.





When a City and an ESCO enter into a Performance Management contract, the cost of the Investment Grade Audit or comprehensive study is financed as part of the project. If anticipated changes within our business prohibit us from entering into a Performance Management contract, then the City pays for the comprehensive study services performed and both parties part company.

The Performance Management responsibilities include three primary stages.

The Investment Grade Audit or **program development** stage is an assessment that determines economic and technical viability of a program. The comprehensive study is a detailed analysis that will result in a varied

array of recommendations that result in guaranteed operational expenditure savings and implementation costs identified. It includes the program's financial funding components, scope of work, pricing, guaranteed savings and a measurement and verification plan to verify the savings are actually achieved. The data provided will enable the City to make an informed financial and technical decision before proceeding to implementation.

The next stage is **program implementation**. Program Implementation begins after determining the operational expenditure saving improvement measures the City wants to include from the comprehensive study, and signing of the Performance Management Contract. Conceptual design engineering is done during the comprehensive study, but additional design engineering is completed during the implementation stage. Subcontractors and vendors will provide labor and materials, while the ESCO will provide all program management and construction management. System commissioning options ensure all operational expenditure improvements are ready for active service. Technical training on the equipment and systems installed will be provided for the City's in-house staff.

The final stage of the Performance Management plan is **program performance**, which encompasses measurement and verification of savings, warranty and other services provided through the guarantee period. Program Performance is a multi-year period encompassed by the savings guarantee and/or finance term. Unlike traditional construction, the ESCO is committed to the long-term effectiveness of the improvements implemented. During this stage of the program, the ESCO will provide measurement and verification of the savings guaranteed, and Performance Management services to ensure positive relations and that the program's effectiveness is maintained. Any operational savings shortfalls are reconciled by the ESCO during this stage.

